



# Dangerous Waste Permit Application Requirements for Facilities that Treat and/or Store Dangerous Waste: An Overview

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## Introduction

Anyone proposing to construct and operate a dangerous waste facility in Washington State must comply with comprehensive state and federal laws and regulations. One of those requirements is to obtain a *final status*, or *Part B permit*, from the Department of Ecology (Ecology).

The formal permitting process for a dangerous waste facility traditionally involves many steps (see chart page 4). Four years or more may elapse between the time a facility submits a *Part B permit application* and it receives a permit, or a permit denial. Ecology receives applications from both existing facilities and from applicants proposing new facilities.



An applicant for a new facility must wait until it receives a permit to begin any construction.

Existing facilities may have a permit that needs to be renewed or they may be in *interim status*. Interim status is available to facilities that existed before they became regulated by the Dangerous Waste Rules, Chapter 173-303 Washington Administrative Code (WAC). This status allows the facility to continue operating while it and Ecology (see next page for EPA's role) complete the processes leading to final

permit decisions. Existing facilities may continue to operate under interim status until a permit, or permit denial, is effective.

Ecology coordinates evaluation of the permit application with other environmental requirements,



such as evaluation of the project's impacts under the State Environmental Policy Act (SEPA).

SEPA requires a broad evaluation of environmental impacts, including those that may not be covered in the permit application. This broad environmental evaluation must be finalized before Ecology makes a final decision to issue a permit.

The following pages summarize both the permit process and the types of information a facility must provide in a permit application. References to the major regulatory requirements are also included. A facility's application must provide information related to the activities it will be conducting.

For example, the application for a facility proposing only to store wastes in containers must show it complies with general requirements and with specific requirements for containers. This facility would not have to show compliance with requirements for tanks (since they do not propose any).

## US EPA's Role

The US Environmental Protection Agency (EPA) regulates management of *hazardous waste*. This program has many similarities to the state's program to manage *dangerous waste*, although it regulates a smaller group of wastes than the state program.

To avoid duplication, EPA has authorized Ecology's dangerous waste management program to be implemented in lieu of portions of the federal hazardous waste program. Dangerous waste management facilities and Ecology implement the state's *authorized program* instead of the federal regulations for those portions of the federal rules the state program is based on.

However, at any one time, a facility is likely subject to some federal requirements in addition to the state requirements. This is because EPA updates federal rules before the state has adopted the new requirements.

Because of this situation, Ecology's permit covers the bulk of the permit requirements, while the EPA retains responsibility for a few specific portions of the requirements. This coordination helps the agencies avoid the duplication of Ecology and the EPA each issuing a comprehensive permit for the same activities.

In summary, EPA's permit usually includes conditions required by federal rules that Washington State has not yet adopted. In some cases, Ecology has adopted the requirement but EPA has not yet authorized these additions to the state program.

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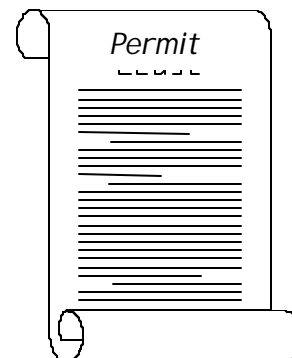
## Permit Contents

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The permit includes details on how the facility must be constructed and operated. It describes where the facility is located and what buildings and other structures are used to store or treat wastes. It also describes how the facility will:

- ✓ Prevent hazards, such as fires or spills to soil or water
- ✓ Be ready to take care of hazards, such as keeping fire extinguishers at hand
- ✓ Respond to an emergency, such as a fire or spill, if it happens
- ✓ Identify wastes
- ✓ Properly hold (or store) wastes in drums or tanks
- ✓ Find and clean up areas where hazardous substances or wastes were spilled to soil or water and not removed (called *corrective action*)

- ✓ Control release of fumes (called *air emissions control*)
- ✓ Clean the storage and/or treatment areas when they want to stop operating
- ✓ Ensure funds are set aside to clean the site when they stop operating



Most of this information comes from the facility's application. This application typically ranges from one to six 3-inch volumes because of the needed detail.

## Permit Decision Process

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To obtain a permit, the facility must prepare a detailed application according to the requirements in the Dangerous Waste Rules and in guidance Ecology has prepared for these complex applications. The Ecology guidance is in Ecology publication #95-402, *Dangerous Waste Permit Application Requirements: For Facilities Which Store and/or Treat Dangerous Wastes in Tank Systems and/or Containers*.

The facility provides copies of the application to department. Usually, Ecology performs all the review, even the initial review for that part of the application for which EPA issues a permit.

### Application Review – Traditional Process

Ecology reviews Part B permit applications for both completeness and technical adequacy. In the completeness review, staff make certain the application contains all the information state and federal regulations require. In the technical review, we determine whether the proposed design and operation of the facility are technically adequate. We evaluate whether the facility as proposed can

actually be built and operated safely, and whether it will do what the applicant says it will.

Reviewing an application generally takes four to nine months.

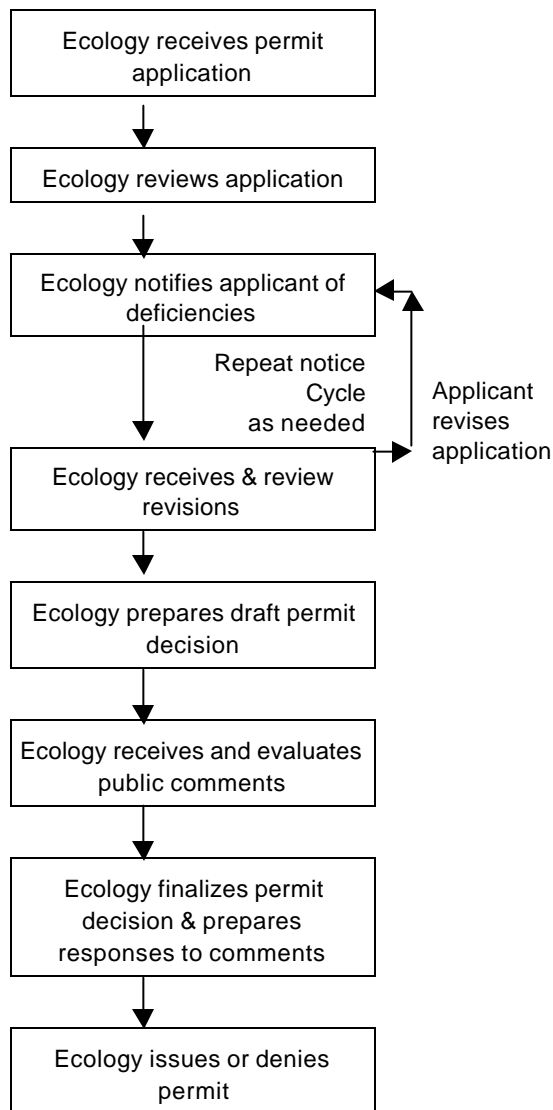
### Notice Of Deficiency

After reviewing a permit application, Ecology prepares a Notice of Deficiency, often referred to as an *NOD*. This notice describes what information is missing from the application and requires the applicant to provide the information by a certain date. In the response, an applicant may revise an entire application or submit revised pages to be placed in the existing application.

### Several Cycles of Review

Under the traditional process, Ecology may issue several notices of deficiency for each application. When the department receives a response, staff review the new or revised information and, if needed, issue another notice of deficiency. Failing to meet the deadline for the response, or failing to submit requested material, may lead to Ecology denying the permit.

### ***Traditional process***



### **Application Review – Expedited Process**

In the mid-1990's, Ecology realized that the traditional permit review and decision process was too lengthy. It was taking up to 10 years to complete the multiple reviews necessary in the traditional "review and revise" process described above.

Therefore, Ecology studied the issue and talked with applicants and members of the public. As a result, Ecology decided to try a new, faster way to review applications and get to a decision on whether to issue or deny a permit.

A key element in this process is regular meetings between Ecology and the applicant to discuss needed changes. In addition, Ecology provides assistance by

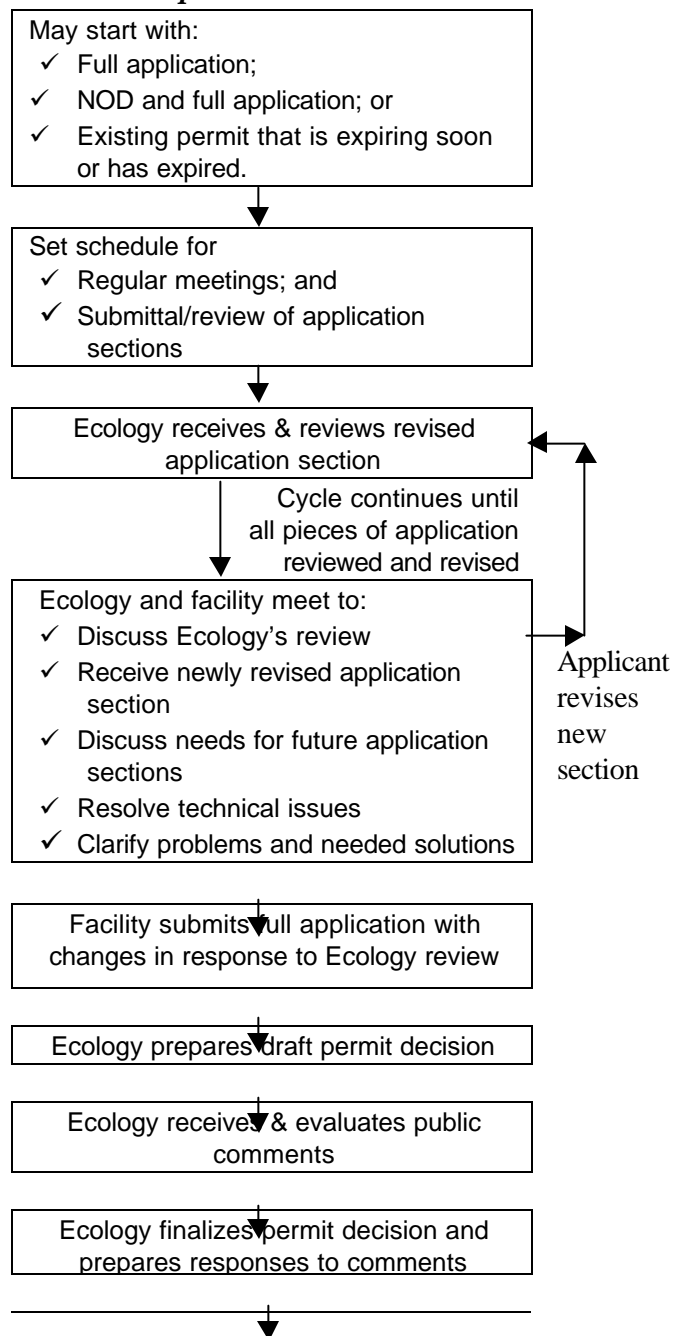
interpreting the state requirements and providing guidance documents.

#### **Interim submittals and Review**

Ecology concluded that receiving and reviewing the application in pieces would speed the decision-making process. This process can start at any one of several places in the *traditional process*:

- ✓ After receipt and review of a full application;
- ✓ After Ecology has issued a notice of deficiency; or
- ✓ When an existing permit is expiring or expired.

### ***Expedited Process***



The next steps are:

- ✓ Ecology approves a schedule for completing the expedited process, generally resulting in a complete, revised application in a year
- ✓ Ecology approves or changes the schedule
- ✓ Applicant and Ecology set up regular meetings, usually monthly. At these meetings:
  - The applicant submits a newly revised piece of the application
  - Ecology provides the results of its review on the previously submitted piece
  - Ecology provides assistance, describing what changes or improvements are needed in future sections of the application
  - Ecology provides interpretation of the Dangerous Waste Rules and provides guidance documents and examples from other permits.

In summary, the permit process can follow the *expedited* or *traditional* procedure. Which process we follow depends on the circumstances for the facility.

## Permit Decision

At the end of the traditional and the expedited processes, Ecology receives a full application. Then, the department evaluates the application changes and prepares a draft permit decision. This *draft permit decision* can be a proposal to deny the permit or to issue a permit for building (or remodeling) and operating the facility. Ecology makes the draft permit decision available for the public and officials, such as the city or county planning department, to review. The comment period lasts a minimum of 45 days.

## Denying a permit

Ecology sometimes must deny a permit. This occurs when Ecology finds:

- ✓ That the location and/or activity endangers people's health and/or the environment. This is shown by the facility's failure to meet certain standards in the Dangerous Waste Rules. For example, the facility must show it will prevent damage to water and air to the "maximum extent practical given the limits of technology"

- ✓ An applicant fails or refuses to correct deficiencies in the application

Ecology can deny a request for renewal if:

- ✓ The facility is not complying with its permit's conditions
- ✓ The facility has failed to disclose "fully all relevant facts" or has misrepresented facts
- ✓ The facility's activities endanger people's health and/or the environment and can be regulated to acceptable levels only by terminating them.

## Public comment period

Once Ecology has developed the draft permit, the department make it available for the public and officials, such as the local city or county planning department, to review. Note that sometimes Ecology and EPA hold their comment periods jointly to avoid confusion and duplication.



Ecology publishes a notice in a local newspaper and mail notices to interested people on a mailing list. If people want a public hearing to discuss the facility or the draft permit, then one is held. Ecology puts copies of the permit, application, and other reports near the site for people to review.

The department also writes a report, called a *fact sheet*. This report explains the many decisions the department made before writing the permit decision. When possible, the agencies combine their public comment periods, notices, and fact sheets.

Ecology values comments from the public. They help the department make better decisions. The most effective comments:

- ❖ Give specific details on the problems the reader finds.
- ❖ Suggest specific changes to the permit.
- ❖ Provide facts to support any suggestions.
- ❖ Include copies of reports or other information cited (if Ecology may not have them).

In fact, the Dangerous Waste Rules, in WAC 173-303-840(6), specify that persons who believe any condition of the draft permit decision is inappropriate must raise "all reasonably ascertainable issues and

submit all reasonably available arguments and factual grounds supporting their position."

### Getting to a final permit decision

Ecology reviews the comments provided by the deadline, including comments given at any hearing. Then the department determines what changes to make to the permit. Often the changes make the permit clearer to the applicant, agencies, and/or the public. Other changes make the facility safer.

After considering the comments and testimony, the department prepares a response to comments and:

- ✓ Issues or denies the permit;
- ✓ Make changes to the permit and issues it; or
- ✓ Issues a new draft permit for more public comment.

### Appealing a permit decision

Once Ecology has issued a final permit decision, anyone who is adversely affected by the decision may appeal it. To have grounds for an appeal, the person must have raised the issues in comments provided during the formal comment period. Any appeal must be filed within 30 days of the date the final permit decision is issued.

Appeals of Ecology's permit go to the Pollution Control Hearings Board in Lacey, Washington, under Chapter 43.21B Revised Code of Washington. Only issues that were raised in letters or testimony during the comment period can serve as the basis for an appeal.

### Public Involvement

When public interest in a site is low, the agencies first go to the public with the draft permit. When there is public interest in a site, then Ecology begins activities to involve the public much earlier.

However, public involvement is required at an even earlier stage if the applicant is proposing a new, or significantly expanded, facility. In such cases, the applicant must notify Ecology that it

#### High public interest is usually due to:

- ✓ Nearby residential area
- ✓ Contamination of soil or water because of activities at the site
- ✓ Problems with operations such as fires, explosions, or fumes
- ✓ A proposal to dispose

plans to submit the application. In this *Notice of Intent*, the applicant also has to show that the site and the facility will meet statewide siting criteria established in 1990.

For existing facilities where there is high interest, one of the first steps often is to talk with people who live and work near the site, with local elected officials, and with environmental or other organizations that are interested in the site.

Ecology is interested in knowing what the public's concerns are about the site, the applicant, the department, and the permit process. The department also wants to know about the best times and locations for public meetings and the best spot to place information and reports about the facility and the permitting process. This *information repository* needs to be in a place that residents and workers can get to easily.

Also, it is important to learn the ways that people in the area usually receive information: what newspapers or bulletin boards people read, whether people need information in another language, or other avenues of information (like "the grapevine") active in the neighborhood.



Finally, Ecology wants to know the points in the process at which people want updates, meetings, mailings, or other contact with the department and the applicant.

Then, using this information, Ecology prepares a plan to guide our efforts to involve the public. This plan is usually placed in the *information repository*.

# The Permit Application

The permit application has two general divisions:

- ✓ General requirements
- ✓ Requirements specific to certain activities

## General Permit Requirements

### Describing the Facility

Every application must generally describe the facility's handling of dangerous wastes, including the types of wastes the applicant manages and if wastes are accepted from off-site, the industries it serves. The application must identify all processes used to treat, store, or generate dangerous waste. The application also briefly describes activities and processes that are not regulated under the state's Dangerous Waste Rules, but that take place on the property.

For example, if the main activity of the business is manufacturing, the application needs to briefly describe what manufacturing processes, and chemicals, are used.

The facility description must show how equipment and structures used to manage dangerous waste are designed to resist ground motion due to earthquakes.

#### *Facility Description*

##### State Requirements:

WAC 173-303-806(4)(a)(i), (x), (xi), (xviii), & (xx)

##### Federal Requirements:<sup>1</sup>

40 CFR 270.14(b)(1), (10), (11) & (19); 270.14(c); & 264.18

Ecology evaluates an application to make sure it has a topographic map of the facility and the surrounding area, which clearly shows items such as:

- ♦ 100-year floodplain
- ♦ Traffic flow patterns
- ♦ Fences and gates
- ♦ Fire control facilities
- ♦ Land uses around the site
- ♦ Loading and unloading areas

- ♦ Wells, buildings, and sewers
- ♦ Flood and drainage control barriers
- ♦ Legal boundaries of the property
- ♦ Storage, treatment, and recycling areas

### Preventing Hazards

An applicant must show how the facility design will prevent emergencies and release of hazardous materials to soil, water, and air.

### Preparedness and Emergency Planning

Ecology evaluates the following requirements during permit review:

- ♦ That appropriate equipment is available, including:
  - Internal alarm system
  - Telephone, radio, or other device for summoning emergency assistance
  - Portable fire control equipment
  - Water of adequate volume and pressure via hoses, sprinklers, foamers, or spray
- ♦ That appropriate procedures are in place to test and maintain all required equipment and to document testing and maintenance
- ♦ That aisle space is adequate to allow unobstructed movement of emergency or spill control equipment
- ♦ That appropriate arrangements have been made to familiarize local emergency service authorities, such as fire and police departments and hospitals, with possible hazards and the facility
- ♦ That, whenever the facility is operating, appropriately trained staff will be available to respond to emergencies



<sup>1</sup> Under the state's *authorized program*, the state regulations apply for most permit provisions. However, here we provide the federal counterparts to allow comparison of the federal and state provisions.



### *Preparedness*

#### State Requirements:

WAC 173-303-806(4)(a)(iv), (v), (viii), & (ix)

#### Federal Requirements:

40 CFR 264.15, 264.17, & Subpart C; 270.14(b)(4) - (6), (8) & (9)

### **Training Program**

The permit application must detail how the owners and operators of the facility will prepare workers to do their jobs safely. It must also show that each worker will be trained to comply with the waste management regulations that apply to his or her job duties. Finally, the application must show that workers will be trained to respond effectively to emergencies.

Ecology evaluates the application to ensure it includes:

- ♦ Training objectives, outlines of material to be presented, and teaching techniques
- ♦ Procedures for testing training effectiveness and for ensuring continuing education of employees
- ♦ A description of the duties and responsibilities for employees whose jobs involves working with dangerous wastes. This needs to be enough information to help staff evaluate the training program
- ♦ Descriptions of the level and amount of training for each job
- ♦ Information showing the facility will keep appropriate training records for all employees

### *Training Program*

#### State Requirements:

WAC 173-303-330 & 806(4)(a)(xii)

#### Federal Requirements:

40 CFR 264.16 & 270.14 (b)(12)

### **Closure Plan**

The Closure Plan is a detailed description of proposed procedures to close a dangerous waste facility at any point in its active life. This includes periods when it is operating at maximum capacity. The plan must describe methods for removing, transporting, treating, storing, or disposing of all dangerous waste on the property in the event the facility must be closed suddenly.

### *Closure Plan*

#### State Requirements:

WAC 173-303-610 (3)-(6) and 806(4)(a)(xiii) & (xv)

#### Federal Requirements:

40 CFR 264.112-115; and 270.14(b)(13) & (16)

Ecology evaluates the following information during permit review:

- ♦ How and when the facility will be closed
- ♦ How closure requirements for treatment and storage areas will be carried out
- ♦ An estimate of the maximum amount of dangerous wastes that can be treated or stored at the facility
- ♦ The steps to decontaminate facility equipment
- ♦ The expected year closure will begin and a schedule for the closure
- ♦ Estimates of costs for closing the facility

### **Financial Assurance for Closure**

The permit applicant must predict the level of funding needed to pay for *closure* activities. The application must show the needed funding level and how the facility's owner or operator will ensure these funds will exist when the time comes to close the facility. Owners and operators use a financial assurance mechanism as the tool to ensure sufficient funding. A variety of mechanisms may be used. They include a trust fund, surety bond, or letter of credit; financial test and corporate guarantee; or insurance.



### *Financial Assurance*

#### State Requirements:

WAC 173-303-620(4), (6) & (7); 806(4)(a)(xv)

#### Federal Requirements:

40 CFR 264.143, 264.145, & 270.14(b)(15)

Ecology evaluates whether the cost estimates for closure are adequate. The agency also checks that the wording of the draft financial assurance document, which must be included in the application, is accurate. A new facility must have the financial



mechanism in place 60 days before it will handle dangerous wastes.

## Addressing Hazards

The permit application must include various elements for responding to hazards, if they occur. These include a contingency plan, liability coverage for accidents, and corrective measures for releases.

### Contingency Plan

Permit applications must provide information on contingency planning and emergency preparedness. The contingency plan ensures that the owner or operator of a facility has measures in place to lessen the impact of an emergency on human health and the environment. Emergency conditions include fire, explosion, and unplanned releases of dangerous wastes to air, soil, surface water or ground water.

Ecology coordinates with local authorities when evaluating information contained in the contingency plan. The plan must describe detailed measures to respond to any emergency or unusual incident that can be expected at the facility. The plan must identify who will be in charge during an emergency situation. It also must define the tasks of all persons who have a responsibility during the emergency.



### Contingency Plan

State Requirements:

WAC 173-303-350 & 806(4)(a)(vii)

Federal Requirements:

40 CFR 264.52 & 270.14(b)(7)

### Liability Coverage

Before Ecology may issue a permit, the facility's owner or operator must obtain liability insurance. For new facilities, the application must include an unexecuted copy of the insurance documentation. Insurance is required for sudden accidents such as explosions.

For sudden accidents, the following coverage must be obtained:

- ♦ \$1 million per occurrence

- ♦ \$2 million annual total of all occurrences (excluding legal defense costs)

Ecology evaluates whether insurance for the above amounts will be in effect before the facility receives its first load of dangerous wastes. Language of the policies will also be examined.

### Liability Coverage

State Requirements:

WAC 173-303-620(8) & 806(4)(a)(xvii)

Federal Requirements:

40 CFR 264.147 & 270.14(b)(17)

## Waste Analysis and Handling

The permit application for any dangerous waste facility must supply information that assures Ecology that the facility's operator will know enough about the wastes it will receive to handle them properly.

The application must provide a plan that describes the procedures the facility will use to determine:

- ♦ The chemical and physical makeup of the waste before it is received
- ♦ That the waste received is what it is supposed to be according to its label and shipping papers and/or manifest.
- ♦ Appropriate treatment processes, if any is needed, and storage areas

This plan must show that the facility keeps the proper records of the analysis of the wastes. For example, when the facility determines the makeup of the waste via laboratory testing, there must be a report detailing the results of chemical, biological, and physical tests. The facility must also keep records on the reason a waste is designated as dangerous waste (e.g., is the material corrosive, toxic, a regulated compound).



### *Waste Analysis*

#### State Requirements:

WAC 173-303-300; -806(4)(a)(ii) & (iii)

#### Federal Requirements:

40 CFR 264.17; 270.14(b)(2), (3) & (9)

Owners and operators must have procedures to track all waste within the facility and determine the fate of each individual waste shipment. The necessary record-keeping procedures must be included in the permit application. The facility must demonstrate that it will:

- ♦ Document every transfer or treatment of a waste within the facility
- ♦ Document every waste shipment leaving the facility
- ♦ Follow the proper quality control procedures for handling and analyzing laboratory samples to assure accuracy

The permit application must also include procedures for handling dangerous waste manifests. The manifest is a document which accompanies a waste "cradle to grave," from generator, to shipper, to treatment and disposal facility. The application must describe procedures for resolving discrepancies between the amount and type of waste in a shipment and what is listed in its accompanying manifest.

### **Corrective Action**

The application must include information on areas on the property where hazardous substances or wastes were spilled or leaked out to soil or water. It also needs to explain what was done to clean up the spilled or leaked material and any soil or water it contaminated. These areas are called *solid waste management areas*, or SWMUs.

## **Specific Requirements**

A facility must comply with the specific requirements that relate to activities it conducts.

### **Containers and Tanks**

The owners and operators of a facility must ensure dangerous wastes are stored or treated in a way that prevents release of hazardous materials to the environment. Ecology reviews the permit application to make sure it provides for:

Ecology reviews this information to see if steps are needed to further evaluate whether contamination still exists, and to study and clean up any contamination that does exist. This process is called *corrective action*.

### *Corrective Action*

#### State Requirements:

WAC 173-303-645, 646; -806(4)(a)(xxii)

#### Federal Requirements

40 CFR Part 264 Subpart S, though these regulations are not comprehensive.

- ♦ Containers or tanks that are appropriate for the wastes being stored or treated
- ♦ Compatible wastes to be stored in the same area (for example, wastes stored in the same area must not cause an explosion if accidentally mixed together)



- ♦ Periodic inspections and testing by the facility to ensure containers and tanks are in good condition
- ♦ Provisions to prevent storm water runoff from carrying contaminants off the property
- ♦ Areas designed to isolate any leaks or spills from containers or tanks to the environment (the design system is called secondary containment)

### *Containers and Tanks*

#### State Requirements:

WAC 173-303-630; 640; 806(4)(b) & (c)

#### Federal Requirements:

40 CFR 264, Subparts I & J; 270.15 & .16

## Miscellaneous Units

Some operations at a facility do not fit neatly into one of the regulatory categories. They are not clearly a container, tank, or other specific unit. However, they are still being used to treat or store dangerous wastes. These *miscellaneous units* must be located, designed, constructed and operated in a way that protects people's health and the environment.

Ecology evaluates the design and proposed procedures to ensure that operating the unit will not result in releases to the air, soil, ground water, or surface water. Or, that if releases occur, the facility has procedures to detect the release and to keep the released material from leaving the property.

In order to ensure safe operations, Ecology may require the facility to comply with the requirements for other units, such as containers or tanks -- as the agency determines the standards fit the unit. For example, equipment that "looks tank-like" may be subjected to the standards for tanks.

### *Miscellaneous Units*

#### State Requirements:

WAC 173-303-680, 806(4)(i)

#### Federal Requirements:

40 CFR 264.600 - 264.603, 270.23

apply to process vents; equipment leaks; and containers, tanks, and surface impoundments.

### *Air Emissions Control*

#### State Requirements:

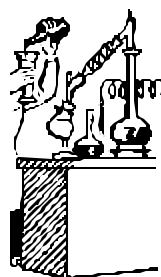
WAC 173-303-110, 690, 691, 692 806(4)(j) & (k)

#### Federal Requirements:

40 CFR Part 264 subparts AA, BB, and CC, 270.24

## Process Vents

Facilities must limit or reduce organic emissions from process vents associated with certain operations, such as distillation.



Ecology evaluates an application to determine if the requirements apply. If they do, staff review equipment design, operating procedures, and emissions control equipment, if needed, to ensure the operations meet the standards. A demonstration that the facility

meets the limits includes detailed calculations, which Ecology checks for accuracy.

## Equipment Leaks

The facility must show they will detect and repair leaks from equipment that comes into contact with or contains hazardous waste ... but only if the waste has a total organic concentration of 10 percent by

## Air Emissions Control

Facilities must control emissions of organic compounds. The emissions control requirements

weight or more. Equipment covered by the *leak detection and repair* standards includes valves, pumps, compressors, pressure relief devices, sampling connection systems, and open-ended valves or lines.

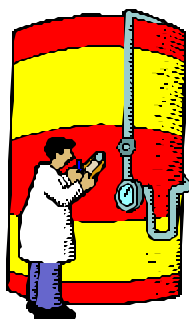
Ecology checks the application to see if the facility manages wastes subject to the standards. If they do, staff review the application to determine if lists of the equipment to be monitored are complete. Also, Ecology checks whether the application includes procedures to mark and inspect the equipment and to complete repairs quickly.

Alternatively, the applicant can provide the procedures it will use to ensure they develop and maintain accurate and up-to-date lists of this equipment.

### **Containers and Tanks**

Facilities must limit or reduce emissions of organic compounds from containers and tanks.

Ecology reviews applications to ensure the facility has properly identified the containers and tanks subject to the standards. Also, staff look to make sure that air emission controls will be properly installed and operated and that equipment design and inspection procedures comply with standards.



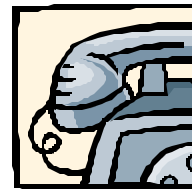
## For More Information

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Reviewing an application and approving, or denying, a permit for a dangerous waste facility is lengthy and time consuming. Ecology's receipt of the application starts a detailed evaluation of the proposal and its environmental impacts.

The permit review and decision-making process involves many parts of the Department of Ecology, other agencies such as EPA and local governments, the applicant, and the public.

Contact Ecology's dangerous waste permit staff at 360.407.6700 in Lacey, or a hazardous waste inspector at one of our regional offices, for more information.



### **Dangerous Waste Permit staff**

Headquarters Office, Lacey 360.407.6700  
P. O. Box 47600  
Olympia, WA 98504-7600

### **Regional Offices**

Northwest Regional Office	425.649.7000
Southwest Regional Office	360.407.6300
Central Regional Office	509.575.2490
Eastern Regional Office	509.456.2926

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